THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.

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*BOMBAY ACT No. IX OF 1934.[1]

[THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.]

[*9th October 1934.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes.

WHEREAS it is expedient to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act;

5 & 6 Geo. V, c. 61.

It is hereby enacted as follows:—

1. This Act may be called the Bombay Trade Disputes Conciliation Act, 1934. Short title.

2. (*1*) Section 1 and this section extend to the whole of the Bombay Presidency. The remaining provisions of this Act extend to the City of Bombay and the Bombay Suburban District and the [2][Provincial Government] may further, by notification in the [3][*Official Gazette*], direct that the said provisions shall extend to such other area as may be specified in the notification. Extent, commencement and application.

(*2*) Section 1 and this section shall come into force at once. The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (*1*), on such date as may be specified in the notification.

(*3*) This Act shall apply, in the first instance, to the textile trade or industry. The [2][Provincial Government] may, by notification in the [3][*Official Gazette*] direct that the provisions of this Act shall apply to such other trade or industry and in such area as may be specified in the notification.

3. In this Act, unless there is anything repugnant to the subject or context,— Definitions.

(*a*) "Commissioner of Labour" means the officer appointed for the time being to be the Commissioner of Labour;

(*b*) "Conciliator" includes the Chief Conciliator or a Special or Assistant Conciliator appointed under this Act;

(*c*) "Conciliation proceeding" means a proceeding held by a Conciliator under this Act;

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[1] For statement of Objects and Reasons *see Bombay Government Gazette*, 1934, Pt. V, pp. 91-95; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1934, Vol. XL.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

*This Act shall cease to apply in a local area to any industry in respect of which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947), have been brought into force in such local area (*vide* s. 121 of Bom. 11 of 1947).

(*d*) "Delegate" means a person appointed under section 9 to represent a party to a trade dispute in a conciliation proceeding and includes the Labour Officer acting as a delegate to represent workmen in such proceeding;

(*e*) "employer" includes any body of persons, whether incorporated or not and any managing agent of an emp yer;

(*f*) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "trade dispute" means any dispute or difference between employers and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person;

(*i*) words and expressions not defined in this Act, but defined in the [1]Trade Disputes Act, 1929, shall have the meaning assigned to them in that Act. VII of 1929.

Appointment of Conciliators.

4. (*1*) The Commissioner of Labour shall be the ex-officio Chief Conciliator.

(*2*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint any person to be a special Conciliator for such area as may be specified in the said notification.

(*3*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint any person to be an Assistant Conciliator for such area as may be specified in the said notification.

Labour Officers.

5. (*1*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint any person to be a Labour Officer for such area as may be specified in the said notification.

(*2*) The Labour Officer shall exercise the powers conferred and perform the duties imposed on him by or under this Act. It shall be the duty of the Labour Officer to watch the interests of workmen with a view to promote harmonious relations between employers and workmen and to take steps to represent the grievances of workmen to employers for the purpose of obtaining their redress.

(*3*) For the purpose of exercising such powers and performing such duties, the Labour Officer may, after giving reasonable notice, enter any place used for the purpose of any trade or industry to which this Act applies and shall be entitled to inspect and call for documents, relevant to the grievances of workmen, in the possession of any employer or workman, as the Labour Officer deems necessary. The Labour Officer may, for the same purpose, enter after giving reasonable notice any premises provided by an employer for the purpose of residence of his workmen.

(*4*) All particulars contained in or information obtained from any document inspected or called for under sub-section (*3*) shall if the person in whose possession the document was so required, be treated as confidential.

Jurisdiction of Conciliators.

6. (*1*) The Chief Conciliator shall exercise powers and perform duties under this Act throughout the Presidency except in the area for which a Special Conciliator has been appointed under this Act.

(*2*) An Assistant Conciliator shall be subordinate to, and shall exercise such powers and perform such duties as may be delegated to him by, the Chief Conciliator or Special Conciliator, as the case may be.

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[1] See now the Industrial Disputes Act, 1947 (XIV of 1947).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substitutd for the words "*Bombay Government Gazette*", *ibid.*

Application or report for settlement of trade disputes.

7. If any trade dispute exists or is apprehended,—

(*a*) either or both parties to the dispute may apply, whether separately or conjointly, or

(*b*) the Labour Officer may make a report,

to the Conciliator for a settlement of the dispute.

Conciliator to give notice to parties.

8. (*1*) If the Conciliator,

(*a*) in any area for which a Labour Officer is appointed, on receipt of an application or report under section 7, or

(*b*) elsewhere, on receipt of an application under section 7 or upon his own knowledge or information,

is satisfied that a trade dispute exists or is apprehended, he may cause notice to be given to the parties to the dispute to appear before him at such time and place as may be specified in the notice.

A copy of such notice shall be sent to the Labour Officer.

(*2*) Notice to the parties shall require them to appoint, within such time as may be specified in the notice, delegates to represent them in the conciliation proceeding.

(*3*) Notice under this section shall be in the prescribed form and shall be served in the prescribed manner.

Delegates.

9. (*1*) On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf appoint delegates in such manner as the Conciliator may direct:

Provided that when a party to the dispute is a single individual, such party may appoint himself as a delegate:

Provided further that the Labour Officer may be appointed as a delegate on behalf of the workmen.

(*2*) The number of delegates appointed by a party to a trade dispute shall not exceed three:

Provided that when, in the opinion of the Conciliator, such party to the dispute is divided into two or more groups, the Conciliator may allow each of such groups to appoint separate delegates not exceeding three:

Provided, further, that the total number of delegates appointed by all the groups forming the party shall not exceed twelve.

(*3*) If an employer who is a party to a trade dispute has failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, such employer shall, on conviction, be punishable with fine which may extend to Rs. 100 and with further fine which may extend to Rs. 100 for every day on which such failure or refusal continues after the date of the first conviction.

Explanation.—Where such employer is a company registered under the [1]Indian Companies Act, 1913, employer shall mean the managing agent or managing director of such company or any other officer of the company authorised to represent such company in the prescribed manner.

(*4*) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under sub-section (*3*).

[1] See Central Acts.

(*5*) No criminal court shall take cognizance of any offence under sub-section (*3*) except with the previous sanction of the [1][Provincial Government].

(*6*) Where workmen who are parties to a trade dispute have failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, the Labour Officer shall act as the delegate on behalf of such workmen.

Disqualification from being a delegate.

10. (*1*) A person shall be disqualified from being appointed or acting as a delegate, if such person—

(*a*) is less than twenty-one years of age; or

(*b*) is an uncertificated bankrupt or an undischarged insolvent.

(*2*) A person shall be disqualified from acting as a delegate, if such person is not, in the opinion of the Conciliator, after the conciliation proceedings have started, a fit and proper person to be a delegate.

(*3*) The decision of the Chief Conciliator or the Special Conciliator, as the case may be, that a person is disqualified from being appointed or acting as a delegate shall be final.

Conciliation proceeding.

11. (*1*) On the date specified in the notice under sub-section (*1*) of section 8 or on such other date as may be fixed by the Conciliator on his motion or at the request of any of the parties to a trade dispute, the Conciliator shall hold the conciliation proceeding in the prescribed manner.

(*2*) A party to such trade dispute shall be represented in a conciliation proceeding by delegates. The Labour Officer, even if not appointed or acting as delegate, shall be entitled to be present at such proceeding.

(*3*) It shall be the duty of the Conciliator to endeavour to bring about a settlement of the trade dispute and for this purpose the Conciliator shall inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof and in so doing may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to agree upon the terms of the settlement.

Procedure and powers of Conciliator in conciliation proceeding.

12. (*1*) A Conciliator shall, subject to the provisions of this Act, follow in a conciliation proceeding such procedure as may be prescribed.

(*2*) For the purpose of holding a conciliation proceeding, the Conciliator shall have the same powers as are vested in courts under the Code of Civil Procedure, 1908, in trying a suit in respect of the following matters, viz. :— V o 1908

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects; and

(*c*) issuing commissions for the examinaton of witnesses; and shall have such further powers as may be prescribed.

(*3*) If a party to a trade dispute giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator that such information or the contents of such document may be treated as confidential, the Conciliator shall direct that such information or document be treated as confidential.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*4*) The Conciliator may, if he thinks fit, permit the information or contents of the document in respect of which a request has been made under sub-section (*3*) to be disclosed to the other party to the trade dispute :

Provided that the Conciliator shall not permit such information or the contents of such document to be so disclosed to the other party to the trade dispute, if it is shown to his satisfaction that such disclosure is likely to affect the interests of the party making the request under sub-section (*3*) adversely in any matter not connected with the settlement of the said dispute.

(*5*) Save as provided in sub-section (*4*), the Conciliator or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document directed to be treated as confidential under sub-section (*3*), without the consent in writing of the party making the request under the said sub-section.

(*6*) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution for an offence under section 14 or under the Indian Penal Code.

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13. (*1*) If a settlement of a trade dispute is arrived at in a conciliation proceeding, a memorandum of such proceeding and settlement shall be drawn up in the prescribed form by the Conciliator and signed by the delegates. The Conciliator shall send a report of such settlement together with a copy of the memorandum to the [1][Provincial Government]. Settlement and Report.

(*2*) If no such settlement is arrived at, the Conciliator shall, as soon as possible, after the close of the conciliation proceeding, send a full report regarding the trade dispute to the [1][Provincial Government], setting forth the particulars of the proceeding and the steps taken by him for the purpose of ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, a settlement could not be made.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*) any information or contents of any document shall not be included in the memorandum of proceedings, settlement or report drawn up or made under sub-section (*1*) or (*2*), if such information or the contents of such document is not permitted by the Conciliator to be disclosed under sub-section (*4*) of section 12.

(*4*) The record of the conciliation proceeding held and settlement made under this section shall be maintained in the prescribed manner.

14. (*1*) If the Conciliator or any prson present at or concerned in a conciliation proceeding wilfully discloses any information or contents of any document in contravention of section 12, he shall, on complaint made by the party who made the request under sub-section (*4*) of section 12, be punishable with fine which may extend to one thousand rupees. Penalty for disclosing confidential information.

(*2*) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this section.

(*3*) No criminal court shall take cognizance of any offence under this section except with the previous sanction of the [1][Provincial Government].

15. Any application, document or other instrument made or produced in the course of any proceeding under this Act shall be exempt from stamp duty, court-fee or registration fee payable under any law for the time being in force. Exemption of documents from stamp duty, court-fee and registration fees.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Penalty.

16. If any person instigates or incites others not to take part in a conciliation proceeding, or otherwise obstructs or instigates or incites others to obstruct a Conciliator in the discharge of his duties under this Act or molests or abets the molestation of others, with intent to prevent them from taking part in a conciliation proceeding, such person shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine or with both.

Explanation.—For the purpose of this section, a person is said to molest any person who—

(*a*) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or persistently follows him from place to place, or interferes with any property owned or used by him, or deprives him of or hinders him in the use thereof, or

(*b*) loiters or does any similar act at or near the place where a conciliation proceeding is held, in such a way and with intent that any person may thereby be deterred from entering or approaching such place.

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17. It shall be lawful for a Conciliator at any time and from time to time when necessary for the purposes of exercising the powers conferred and performing the duties imposed by or under this Act to enter any premises used for the purpose of any trade or industry to which this Act applies.

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18. A Conciliator and a Labour Officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

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19. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

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20. (*1*) The [1][Provincial Government] may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) prescribing the powers and duties of the Labour Officer ;

(*b*) prescribing the powers and duties which may be delegated to Assistant Conciliators ;

(*c*) prescribing the form and manner in which notice shall be given under section 8 ;

(*d*) prescribing the manner in which the officer of a company shall be authorised to represent the company under section 9 ;

(*e*) regulating the procedure in which a conciliation proceeding shall be held under section 11 ;

(*f*) determining the scale of fees at which witnesses shall be paid for appearance in a conciliation proceeding under section 11 ;

(*g*) specifying the powers which may be exercised by the Conciliator for the purpose of a conciliation proceeding under section 11 ;

(*h*) prescribing the form in which and the particulars which shall be mentioned in the memorandum of a settlement under section 13 ;

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*i*) prescribing the manner in which the record of a conciliation proceeding and settlement shall be maintained under section 13; and

(*j*) providing for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the [1][Provincial Government], necessary for giving effect to the provisions of this Act.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [2][*Official Gazette*].

(*4*) Rules made under this section shall be laid [3][before each of the Chambers of the Provincial Legislature] at the session [4][thereof] next following and shall be liable to be modified and rescinded by a resolution [5][in which both the Chambers concur] and such rule shall after notification in the [2][*Official Gazette*] be deemed to have been modified or rescinded accordingly:

Provided that when in the opinion of the [1][Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][Provincial Government] may by notification in the [2][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

Saving of the provisions of the Trade Disputes Act, 1929.

21. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation proceeding shall be held relating to any matter or trade dispute which is referred to and is pending before, the Court of Inquiry or Board of Conciliation under the said Act.

VII of 1929.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[4] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[5] The words "in which both the Chambers concur were" substituted for the words "of the said Council", *ibid.*